

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TUWANE ENGLISH,

Defendant.

8:03CR87

ORDER

This matter is before the court on the defendant's request for copies (Filing No. 84) and application to proceed in forma pauperis (Filing No. 85). The defendant states he needs case documents to file a petition in the District Court of Northern Iowa. The defendant has not filed a motion for post-conviction relief.

Under Rule 6(b) of the "Rules Governing Section 2255 Cases in the United States District Courts," a party requesting discovery must provide reasons for his requests and must specify any requested documents. Also, under [28 U.S.C. § 2250](#), if a petitioner is permitted to prosecute a petition for a writ of habeas corpus in forma pauperis, "the clerk of any court of the United States shall furnish to the petitioner without cost certified copies . . . the record . . . as may be required by order" [28 U.S.C. § 2250](#). The statute contemplates the filing of a motion for collateral review of a conviction before free copies of the record are furnished to the moving party. **See *Chapman v. United States***, 55 F.3d 390, 390-91 (8th Cir. 1995) (stating any request for a free transcript prior to the filing of a section 2255 motion is premature). Accordingly, the court finds the motion should be denied at this time without prejudice to reassertion after filing a section 2255 petition or other timely motion. However, the defendant may request copies at his own expense. Upon consideration,

IT IS ORDERED:

1. The defendant's request for a copies (Filing No. 84) is denied.
2. The defendant's application to proceed in forma pauperis (Filing No. 85) is denied.

Dated this 18th day of September, 2013.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge